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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130726661-4551-02]

RIN 0648-BD56

Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 8

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS approves and implements measures included in Framework Adjustment 8 to the Monkfish Fishery Management Plan. This action increases monkfish day-at-sea allocations and landing limits, allows vessels issued a limited access monkfish Category H permit to fish throughout the Southern Fishery Management Area, and enables vessels to use an allocated monkfish-only day-at-sea at any time throughout the fishing year. It also revises biological reference points for the monkfish stocks in the Northern and Southern Fishery Management Areas based on an updated stock assessment. The approved measures are intended to increase monkfish landings and better achieve optimum yield in each fishery management area, increase operational flexibility to maximize the value of available fishing opportunities, and ensure that management measures are based on the best scientific information available.

DATES: This final rule is effective on [insert date of publication in the Federal Register].

ADDRESSES: We prepared a Final Regulatory Flexibility Analysis (FRFA), which consists of the Initial Regulatory Flexibility Analysis (IRFA), public comments and responses, and the

summary of impacts and alternatives contained in the Classification section of the preamble of this final rule. Copies of the supporting biological, economic, and social impact analysis for this action are contained in the environmental assessment (EA) prepared for this rule, and may be found at the following internet address:

<http://www.nero.noaa.gov/regs/2014/May/14monkfishfw8ea.pdf>. Paper copies of the Framework 8 EA are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. Copies of the small entity compliance guide are available from the John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930-2276.

FOR FURTHER INFORMATION CONTACT: Douglas Christel, Fishery Policy Analyst, (978) 281-9141, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

The New England and the Mid-Atlantic Fishery Management Councils develop management measures governing the monkfish fishery under the Monkfish Fishery Management Plan (FMP). The Councils manage the fishery as two management units, with the Northern Fishery Management Area (NFMA) covering the Gulf of Maine and northern part of Georges Bank, and the Southern Fishery Management Area (SFMA) extending from the southern flank of Georges Bank through the Mid-Atlantic Bight to North Carolina. The monkfish fishery is primarily managed by landing limits and a yearly allocation of monkfish days-at-sea (DAS) calculated to enable vessels participating in the fishery to catch, but not exceed, the annual catch limit in each management area.

In May 2013, we conducted an operational stock assessment to update monkfish biological reference points and provide projections to set future catch levels. The New England Council's Scientific and Statistical Committee (SSC) reviewed the results of that assessment and additional analysis by the Councils' Plan Development Team, but concluded that no changes to existing catch levels are warranted at this time. The Councils concurred with the SSC's conclusions, and did not propose any changes to existing catch levels. Accordingly, existing catch levels remain in place until changed by a future management action (see Table 1).

Table 1. Monkfish Catch Levels Continued Under Framework Adjustment 8

Catch Limit	Monkfish Management Area	
	NFMA	SFMA
Acceptable Biological Catch (ABC)	7,592 mt	12,316 mt
Annual Catch Limit (ACL)		
Annual Catch Target (ACT)	6,567 mt	11,513 mt
Total Allowable Landings (TAL)	5,854 mt	8,925 mt

In recent years, the monkfish fishery has failed to achieve optimum yield (OY) because it has not fully harvested the Annual Catch Target (ACT) specified for each year, particularly in the NFMA. Further, members of the monkfish fishing industry have indicated that existing regulations reduce their ability to maximize available monkfish fishing opportunities and land more monkfish, particularly restrictions on when monkfish-only DAS may be used and where vessels issued limited access monkfish Category H permits may fish. The Councils developed Framework 8 to incorporate the results of the latest monkfish stock assessment, and to revise measures to better achieve OY and enhance the operational efficiency of existing management measures. We published a proposed rule to implement measures proposed in Framework 8 on May 27, 2014 (79 FR 30065), with public comments accepted through June 11, 2014. A full summary of the development of Framework 8 and the purpose of each proposed measure is included in that rule, and in the EA developed for this action (see ADDRESSES).

Approved Measures

The following summarizes the approved Framework 8 measures. These measures build upon the provisions implemented by previous management actions, and are intended to either supplement or replace existing regulations, as described for each measure. This final rule also includes revisions to regulations that are not specifically identified in Framework 8, but are necessary to correct errors or clarify existing provisions, as authorized by section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act.

Because measures proposed under Framework 8 and implemented through this final rule did not become effective until after the start of fishing year (FY) 2014 on May 1, 2014, all monkfish catch since May 1, 2014, will be deducted from the catch levels specified in Table 1 for FY 2014. Further, consistent with the regulations at 50 CFR 648.96(a)(3)(iv), any monkfish DAS used by a vessel on or after the start of FY 2014 will be counted against the monkfish DAS allocation the vessel ultimately receives during FY 2014 upon the implementation of measures approved under this action.

1. Revised Biological and Management Reference Points

This action updates the monkfish biological and management reference point values to be consistent with those recommended by the SSC and the best available scientific information from the 2013 monkfish operational assessment (see Table 2). These reference points are used to determine if overfishing is occurring on either stock (fishing mortality rate (F) threshold ($F_{\text{Threshold}}$)), if either stock is overfished (biomass (B) threshold ($B_{\text{Threshold}}$)), or if either stock is rebuilt (B_{Target}).

Table 2. Comparison of Monkfish Biological Reference Points Between SAW 50 (2010) and the 2013 Monkfish Assessment Update.

Monkfish Management Area	Biological Reference Point	SAW 50 and 2010	2013 Operational Assessment and
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		SSC Review	SSC Review
NFMA	F_{MAX} (threshold)	0.43	0.44
	B_{Target}	52,930 mt	46,074 mt
	$B_{Threshold}$	26,465 mt	23,037 mt
	Overfishing Level	19,557 mt	17,805 mt
	Maximum Sustainable Yield	10,745 mt	9,383 mt
SFMA	F_{MAX} (threshold)	0.46	0.37
	B_{Target}	74,490 mt	71,667 mt
	$B_{Threshold}$	37,245 mt	35,834 mt
	Overfishing Level	36,245 mt	23,204 mt
	Maximum Sustainable Yield	15,279 mt	14,328 mt

2. Changes to Monkfish DAS Allocations and Landing Limits

Existing monkfish DAS allocations and landing limits are raised to help increase monkfish landings and the proportion of the TAL and ACT caught in each area (see Table 3). Under this action, all limited access monkfish permits are allocated 46 monkfish DAS. Each permit's monkfish DAS allocation is then reduced by 0.8 DAS to set aside 500 monkfish DAS under the Monkfish Research Set Aside program, resulting in 45.2 monkfish DAS (46 DAS – 0.8 DAS) allocated to each limited access monkfish permit starting in FY 2014. Of this 45.2 monkfish DAS allocation, up to 32 may be used in the SFMA. This represents a 5.2 DAS increase in a permit's total monkfish DAS allocation, and a 4 DAS increase in the number of monkfish DAS that may be used in the SFMA.

Monkfish incidental landing limits are increased for limited access monkfish Category C and D vessels fishing under a Northeast multispecies (groundfish) DAS in the NFMA, while monkfish directed landing limits are increased for vessels fishing under a monkfish DAS in the SFMA (see Table 3). All other monkfish incidental landing limits remain the same as those implemented by previous management actions.

Table 3. Changes to Monkfish DAS Allocations and Landing Limits for Limited Access Monkfish Category A, B, C, and D Permits (in tail weight/DAS).

Management	Incidental Landing Limit	Monkfish	Monkfish	Monkfish
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Area		Permit Category A/C Landing Limit	Permit Category B/D Landing Limit	DAS Allocation*
NFMA	600 lb (272 kg) for Category C Permits and 500 lb (227 kg) for Category D permits fishing under a groundfish DAS	1,250 lb (567 kg)	600 lb (272 kg)	45.2
	Unchanged for all other situations			
SFMA	Unchanged	610 lb (277 kg)	500 lb (227 kg)	32

*The SFMA monkfish DAS allocation represents the maximum number of monkfish DAS that could be used in the SFMA.

Monkfish DAS allocations and landing limits for vessels issued a limited access Category F permit and electing to participate in the Offshore Fishery Program in the SFMA are calculated separately from the monkfish DAS allocation to all limited access monkfish permits. As outlined in § 648.95(g)(2), we calculate the monkfish DAS allocation for each Category F permit by dividing the daily landing limit when fishing under the Offshore Fishery Program (1,600 lb (726 kg) tail weight) by the SFMA monkfish landing limit applicable to the vessel's monkfish limited access permit category. We then multiply that number by the vessel's monkfish DAS allocation (32 DAS in the SFMA plus up to 4 DAS carried over from the previous year) to get the permit's monkfish DAS allocation when participating in the Offshore Fishery Program. Table 4 summarizes the monkfish DAS allocated to Category F permits participating in the Offshore Fishery Program under this action.

Table 4. Monkfish DAS Allocated to Permits Participating in the Offshore Fishery Program.

If your original monkfish limited access permit category is...	Your maximum monkfish DAS allocation under the Offshore Fishery Program will be...
A or C	13.7 DAS
B, D, or H	12.4 DAS

3. Modified Monkfish DAS Usage Requirements

Limited access monkfish Category C and D vessels may now use monkfish-only DAS at any time throughout the FY under this action. Monkfish-only DAS are a permit's monkfish DAS allocation in excess of that permit's allocation of groundfish Category A DAS at the beginning of the FY. Under this action, a vessel no longer has to use all of its allocated groundfish DAS in conjunction with allocated monkfish DAS before it can use any remaining monkfish-only DAS. A vessel will be charged monkfish DAS based upon the monkfish DAS type declared via the interactive voice response (call-in) system or the vessel monitoring system before each trip. These changes will help vessels maximize the economic value of monkfish fishing opportunities by enabling vessels to use monkfish-only DAS to selectively target monkfish earlier in the FY with minimal bycatch of groundfish, and later use both monkfish and groundfish DAS to fish for monkfish when groundfish are more abundant and could be landed in greater amounts, particularly in the SFMA.

4. Expanded Boundary Line for Monkfish Limited Access Permit Category H Vessels

A vessel issued a limited access monkfish Category H permit may now fish throughout the SFMA. This action eliminates the previous restriction limiting such vessels to fish for monkfish south of 38°40' N lat. This provides greater operational flexibility to vessel operators, and enables them to maximize opportunities to fish for monkfish.

5. Corrections and Clarifications to Existing Regulations

We have made the following corrections to existing regulations to address inadvertent errors, omissions, and ambiguities in existing regulations under the authority provided to the Secretary of Commerce in section 305(d) of the Magnuson-Stevens Act.

In § 648.2, a definition of “monkfish-only DAS” is inserted to clarify the use of that term in the monkfish effort-control program provisions specified at § 648.92. The new definition

specifies that a permit's initial allocation of monkfish-only DAS would be based upon the difference between a permit's monkfish and NE multispecies Category A DAS allocation at the beginning of the FY, but may vary throughout the FY based upon the acquisition or relinquishment of groundfish DAS under the NE Multispecies DAS Leasing Program.

In § 638.92, paragraph (b)(3) is revised to state that, with the exception of monkfish DAS charged when fishing with gillnet gear pursuant to § 648.92(b)(8)(v), all monkfish DAS fished shall be charged to the nearest minute.

In § 648.93, paragraph (b) is deleted and paragraphs (a)(1) and (a)(2) are designated as paragraphs (a) and (b), respectively.

In § 648.94, paragraph (f) is revised to clarify that a vessel operator may declare his/her intent to fish in the NFMA via the vessel monitoring system or the interactive voice response call-in system.

Comments and Responses on Measures Proposed in the Framework 8 Proposed Rule

We received two comments during the comment period on the proposed rule for this action from one individual and one organization representing commercial seafood processors. Please note in considering the responses to comments below that NMFS may only approve or disapprove measures proposed in a fishery management plan, amendment, or framework adjustment, and may not change or substitute any measure in a substantive way, pursuant to section 304(a)(3) of the Magnuson-Stevens Act.

General Comments

Comment 1: One commenter opposed making defining OY the responsibility of NMFS, suggesting that the first goal should be to protect fish from commercial fishing entities. This

commenter recommended reducing monkfish catch limits by 50 percent immediately, suggesting that existing catch limits are unsustainable.

Response: The Magnuson-Stevens Act, not NMFS, makes NMFS responsible for, and defines, the OY (see 16 USC § 1851 and 50 CFR § 600.310). In Amendment 5 (76 FR 30265; May 25, 2011), the Councils further specified that OY in the Monkfish FMP means fully harvesting the ACT in each area, consistent with the National Standard 1 guidelines (74 FR 3178; January 16, 2009). This action does not revise the definition of OY in the Monkfish FMP or Magnuson-Stevens Act, but rather revises monkfish regulations to more effectively achieve OY, as required by the Magnuson-Stevens Act.

As specified in the proposed rule for this action, we conducted an operational assessment for both monkfish stocks in 2013 to provide information relevant for setting monkfish catch levels beginning in FY 2014. According to that assessment, both monkfish stocks are rebuilt and neither overfished, nor subject to overfishing. While acknowledging the uncertainty in the latest monkfish assessment and that it provides both positive and negative indications of stock status, the Councils and the SSC concluded that changes to existing catch levels are not warranted at this time. Therefore, this action maintains existing monkfish catch limits in both areas.

Comment 2: One organization representing commercial seafood processors supported any efforts that will increase monkfish landings. This group claimed that the FMP has prevented fishermen from fully harvesting the total allowable landings (TAL) amounts in recent years, with landings averaging 62 and 67 percent of the TAL from the NFMA and SFMA, respectively, during the past 4 years. This group suggested that the proposed measures are unlikely to substantially increase monkfish landings, because they provide no real incentive for fishermen to land monkfish. While this group believes that the proposed increased monkfish DAS will lead to

higher monkfish landings from the SFMA, they recommend that we increase the NFMA incidental monkfish landing limit by 75 percent to more effectively increase monkfish landings, because 75 percent of NFMA monkfish landings occur when targeting other species.

Response: We also support efforts to increase monkfish landings and more fully realize OY in the monkfish fishery. As noted above, and in the preamble of the proposed rule for this action, Framework 8 is intended to increase incentives and opportunities to land monkfish compared to recent years. The Councils' Monkfish Plan Development Team investigated why existing measures have not provided sufficient incentive to land monkfish in recent years, but failed to reach any definitive conclusions. It is likely that there are many dynamic factors influencing incentives to land monkfish, including market price, reduced catch limits and other restrictions in the groundfish fishery, additional fishing opportunities in other fisheries, and fish availability. Both NMFS and the Councils will continue to monitor the fishery and adjust measures, as necessary, to achieve OY and FMP objectives, as required by the Magnuson-Stevens Act.

We recognize that the 75 percent of monkfish landed from the NFMA are incidental landings when targeting other fisheries, mostly groundfish. Based on industry input, the Councils proposed increasing incidental landing limits as the primary means of increasing monkfish landings in the NFMA under Framework 8. This action increases incidental monkfish landing limits for vessels fishing on a groundfish DAS in the NFMA by 100 percent for Category C vessels (from 300 lb (136 kg) to 600 lb (272 kg) tail weight per DAS) and 67 percent for Category D vessels (from 300 lb (136 kg) to 500 lb (227 kg) tail weight per DAS). Framework 8 does not increase incidental landing limits by 75 percent for Category D vessels, as recommended by the commenter. This was because the Councils wanted to increase incidental

landing limits in a manner that would preserve the approximate differential fishing opportunities associated with the two permit categories. Accordingly, the Councils increased the incidental monkfish landing limit for Category C permits more than Category D permits, because such permits landed more monkfish during the original qualification period for their limited access monkfish permits. Because incidental monkfish landings by Category C vessels represent the majority of incidental monkfish landings from the NFMA, this action should increase incidental monkfish landings from the NFMA by an amount very close to the amount that would result from the measures recommended by the commenter. Therefore, we did not change the proposed NFMA monkfish incidental landing limits through this action.

Changes from the Proposed Rule

We have not made any changes to the proposed regulations published in the proposed rule for this action.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that Framework 8 is necessary for the conservation and management of the monkfish fishery, and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date because delaying the effectiveness of this rule is contrary to the public interest. This rule increases monkfish DAS allocations from 40 to 46 DAS, increases both targeted and incidental monkfish landing limits, eliminates the provision restricting when vessels can use monkfish-only DAS, and increases the area in which monkfish Category H permits may target monkfish. The Councils developed these measures to increase monkfish landings and associated fishing revenue to more effectively achieve OY in the fishery. Increased monkfish landings may also help

alleviate substantial economic and social impacts associated with substantially reduced fishing opportunities in the groundfish fishery in recent years. Further, by eliminating both the monkfish-only DAS use restriction and the northern boundary for Category H permits, this action also eases restrictions that unnecessarily reduce the efficient utilization of available monkfish fishing opportunities for certain vessels. Accordingly, delaying this action for 30-days is contrary to the public interest, because it would unnecessarily delay the public's ability to take advantage of increased opportunities to catch and land monkfish and benefit from the associated economic benefits of higher monkfish landings. A swift implementation of this final action increases the likelihood that affected entities will be able to catch and land more monkfish, resulting in additional fishing revenue and minimizing the chances of continued negative economic impacts due to the recently reduced groundfish quotas. Further, since this rule imposes no further restrictions on the monkfish fishery that would alter existing fishing practices or require affected entities to acquire additional equipment, there is no need to delay implementation of this action to provide affected entities sufficient time to prepare for the implementation of this action. Thus, there is good cause under 5 U.S.C. 553(d)(3) to waive the delay in effectiveness for this action.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule does not contain policies with federalism or "takings" implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

A Final Regulatory Flexibility Act (FRFA) analysis was prepared for this action. The FRFA incorporates the Initial Regulatory Flexibility Act (IRFA) analysis, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to

those comments, a summary of the analyses completed in the Framework 8 EA, and this portion of the preamble. A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is contained in Framework 8 and in the preamble to the proposed and this final rule, and is not repeated here. All of the documents that constitute the FRFA are available from NMFS (see ADDRESSES).

Summary of the Significant Issues Raised by Public Comments in Response to the IRFA. A Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made from the Proposed Rule as a Result of Such Comments

The public did not raise any significant issues in response to the IRFA, so no changes were made from the proposed rule.

Description of and Estimate of the Number of Small Entities to Which the Final Rule Will Apply

This action would affect any vessel issued a valid Federal limited access monkfish permit. NMFS issued 625 limited access monkfish permits during FY 2013, including 20 Category A permits, 41 Category B permits, 279 Category C permits, 264 Category D permits, 14 Category F permits, and 7 Category H permits. Also, there were 1,594 open access Category E monkfish permits. In recent years, the number of active permits (i.e., those actually landing monkfish during the FY) has been lower than the number issued permits. Therefore, it is likely that a subset of these entities will be affected by this action. A more complete description of the monkfish fishery is found in section 4.0 of the EA prepared for this action (see ADDRESSES).

The Small Business Administration (SBA) defines a small business in the finfish fishing sector (NAICS code 114111) as a firm or affiliate group with gross revenue of \$19.0 million; and the shellfish fishing sector (NAICS code 114112) as a firm or affiliate group with gross revenue

of \$5.0 million or more. NMFS guidelines identify the affiliate group (or “entity”) rather than permit as the appropriate level of analysis for regulatory actions. Affiliate groups were identified using permit ownership data recently added to the NMFS permit database, with designations of large and small entities based on each entity’s 3-year average ex-vessel revenue. Data from FY 2012 are the most complete data available with which to make a determination regarding the size of entities affected by the proposed action. During FY 2012, 651 entities landed at least one pound of monkfish. Of these, 534 entities were composed of a single vessel permit, 110 were composed of 2 to 5 permits, and 7 were composed of 6 or more permits. Further, 401 entities were plurality-finfish, while 250 are plurality-shellfish. Using the above criteria, of the 651 entities that landed monkfish during FY 2012, we classified 629 entities as “small,” while we classified the remaining 22 entities as “large” because they had gross fishing revenue in excess of the SBA revenue criteria specified above for small entities.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Final Rule

This action does not contain any new recordkeeping or reporting requirements, and does not impose any additional costs to affected vessels.

Description of Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes

During the development of Framework 8, the Councils considered and fully analyzed several alternatives to the measures implemented by this action. The No Action Alternatives would have retained the existing monkfish DAS allocations, landing limits, and restrictions on when monkfish-only DAS can be used and where Category H permits can fish. NFMA Alternative 2 would have increased monkfish DAS allocations to 64 DAS, but kept landing

limits the same as those effective in FY 2012. SFMA Alternative 3 would have retained existing landing limits and increased monkfish DAS allocation to 51 DAS, while SFMA Alternative 4 would have slightly increased monkfish landing limits, but retained existing SFMA monkfish DAS use restrictions. For both areas, the Councils did not adopt the No Action Alternatives because the existing monkfish DAS, landing limits, and DAS use and area restrictions have not achieved OY in recent years, resulting in forgone fishing opportunities and associated vessel revenue. Those measures would not increase opportunities to land monkfish or the efficiency of vessel operations consistent with the purpose and need for this action. For a more complete description of the alternatives considered, refer to preamble of the proposed rule for this action and the EA prepared for this action (see ADDRESSES).

The Councils considered two alternatives for revisions to when monkfish-only DAS could be used and where limited access monkfish Category H vessels can fish: The No Action and the preferred alternative. Because the Councils adopted the preferred alternatives that liberalize when monkfish-only DAS could be used and where limited access monkfish Category H permits can fish, we have implemented measures under this action that maximize fishing opportunities and minimize adverse impacts to affected entities from these provisions.

The changes to monkfish DAS and landing limits implemented by this rule do not maximize revenue among the alternatives considered. When evaluated in isolation, we expect the NFMA measures implemented by this rule will result in approximately \$600,000 more in revenue than existing measures (No Action Alternative), but about \$650,000 less revenue than Alternative 2 measures (increasing monkfish DAS allocations to 64 DAS while maintaining existing monkfish landing limits). The SFMA measures implemented by this rule would result in about \$0.7 million more monkfish revenue than expected under existing measures (No Action

Alternative). Compared to SFMA Alternatives 3 and 4, the measures implemented by this action would result in \$3.2 million less monkfish revenue than under Alternative 3 (increasing monkfish DAS allocations to 51 DAS while maintaining existing monkfish landing limits), but \$1.5 million more monkfish revenue than under Alternative 4 (existing monkfish DAS usage limit, but higher directed landing limits). When the revenue streams of all possible combinations of alternatives are considered, the measures implemented by this rule would increase monkfish revenue by \$330,000 - \$2.3 million compared to some combinations of alternatives, but also result in \$146,000 - \$2.6 million less monkfish revenue compared to other combinations of alternatives. Overall, the measures implemented by this action would increase monkfish revenue by about \$2.3 million compared to existing measures.

Although other alternatives considered by the Councils (NFMA Alternative 2 and SFMA Alternative 3) would likely have resulted in greater short-term monkfish revenue compared to the measures implemented by this action, those alternatives may have had different potential impacts on the monkfish resource. All alternatives would have resulted in catch that are lower than existing catch limits, with the non-selected alternatives likely resulting in higher monkfish catch than those implemented by this action. However, during the development of Framework 8, some members of the fishing industry and Councils were concerned with the high degree of uncertainty in the latest monkfish stock assessment update, and that substantially increasing monkfish catch may adversely affect the long-term sustainability of the stocks. They cited concerns about persistent retrospective patterns in the assessment that continue to overestimate biomass and underestimate fishing mortality, suggesting that the stock is not as healthy as implied by the assessment results. This is similar to comments made by the SSC during their review of the latest assessment update. The Councils sought to balance interest in increasing

monkfish landings and associated revenues with concerns about uncertainty in the current estimates of stock biomass and the potential that excessive harvest could inadvertently lead to overfishing and future reductions in catch levels to ensure the long-term sustainability of monkfish stocks. The measures implemented by this rule will likely result in a modest increase in monkfish landings and associated revenue, without increasing the risk that overfishing would occur, particularly after consideration of continuing retrospective patterns. Thus, the measures adopted and implemented under this action represent a compromise between biological and economic benefits to the monkfish fishery that attempt to increase short-term economic benefits and minimize the potential for long-term reductions in fishing opportunities and associated fishing revenue.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, we prepared a letter to permit holders that also serves as small entity compliance guide (the guide). Copies of this final rule are available from the Greater Atlantic Regional Fisheries Office. We will send copies of the guide (i.e., permit holder letter) to all monkfish permit holders and make both the guide and this final rule available upon request.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 14, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 648.2, add a definition for “Monkfish-only DAS” in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Monkfish-only DAS means monkfish DAS allocated to a limited access monkfish Category C, D, F, G, or H permit that are in excess of that permit’s initial allocation of Northeast multispecies Category A DAS at the beginning of a fishing year.

* * * * *

3. In § 648.92, revise paragraphs (b)(1)(i) and (ii), (b)(2) and (3), and (b)(9)(i) to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

* * * * *

(b) * * *

(1) * * *

(i) General provision. Each vessel issued a limited access monkfish permit shall be allocated 46 monkfish DAS each fishing year which must be used in accordance with the provisions of this paragraph (b), unless otherwise specified by paragraph (b)(1)(ii) of this section or modified by § 648.96(b)(3), or unless the permit is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(1)(iv) of this section. The annual allocation of monkfish DAS to each limited access monkfish permit shall be reduced by the amount calculated in paragraph (b)(1)(v) of this section for the research DAS set-aside. Unless otherwise specified under this subpart F, a vessel issued a limited access NE multispecies or limited access sea scallop permit that is also issued a limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with each monkfish DAS utilized, except as provided in paragraph (b)(2) of this section.

(ii) DAS restrictions for vessels fishing in the SFMA. A vessel issued a limited access monkfish permit may not use more than 32 of its 46 monkfish DAS allocation in the SFMA during each fishing year. Each vessel issued a limited access monkfish permit fishing in the SFMA must declare that it is fishing in this area through the vessel call-in system or VMS prior to the start of every trip. In addition, if a vessel does not possess a valid letter of authorization from the Regional Administrator to fish in the NFMA as described in § 648.94(f), NMFS shall presume that any monkfish DAS used were fished in the SFMA.

* * * * *

(2) Category C, D, F, G, or H limited access monkfish permit holders. (i) General provision. Unless otherwise specified in paragraph (b)(2)(ii) of this section, each monkfish DAS used by a vessel issued a limited access monkfish Category C, D, F, G, or H permit and a limited access NE multispecies or scallop DAS permit shall also be counted as a NE multispecies or scallop DAS, as applicable. A vessel issued a limited access monkfish Category C, D, F, or H permit may not use a NE multispecies Category B Regular DAS under the NE Multispecies Regular B DAS Program, as specified under § 648.85(b)(6), in order to satisfy the requirement of this paragraph (b)(2)(i) to use a NE multispecies DAS concurrently with a monkfish DAS.

(ii) Monkfish-only DAS. When a vessel issued a limited access monkfish Category C, D, F, G, or H permit and a limited access NE multispecies DAS permit has an allocation of NE multispecies Category A DAS, specified under § 648.82(d)(1), that is less than the number of monkfish DAS allocated for the fishing year May 1 through April 30, that vessel shall be allocated “monkfish-only” DAS equal to the difference between the number of its allocated monkfish DAS and the number of its allocated NE multispecies Category A DAS at the start of a fishing year. For example, if a vessel issued a limited access monkfish Category D permit is allocated 46 monkfish DAS and 26 NE multispecies Category A DAS, it would have 20 monkfish-only DAS at the start of each fishing year. The available balance of monkfish-only DAS may vary throughout the fishing year based upon monkfish-only DAS usage and the acquisition or relinquishment of NE multispecies DAS under the NE Multispecies DAS Leasing Program, as specified in paragraph (b)(2)(iii) of this section. A vessel issued a limited access monkfish Category C, D, F, G, or H permit may use monkfish-only DAS without the concurrent use of a NE multispecies DAS at any time throughout the fishing year, regardless of the number of NE multispecies Category A DAS available. When fishing under a monkfish-only DAS, the

vessel must fish under the regulations pertaining to a limited access monkfish Category A or B permit, as applicable, and may not retain any regulated NE multispecies. For example, a vessel issued a limited access monkfish Category C permit must comply with the monkfish landing limits applicable to a Category A monkfish permit when fishing under a monkfish-only DAS.

(iii) Category C, D, F, G, or H vessels that lease NE multispecies DAS. (A) A vessel issued a limited access monkfish Category C, D, F, G, or H permit that has monkfish-only DAS, as specified in paragraph (b)(2)(ii) of this section, and that leases NE multispecies DAS from another vessel pursuant to § 648.82(k), must fish its available monkfish-only DAS in conjunction with its leased NE multispecies DAS, to the extent that the vessel has NE multispecies DAS available.

(B) A vessel issued a limited access monkfish Category C, D, F, G, or H permit that leases NE multispecies DAS to another vessel(s), pursuant to § 648.82(k), must forfeit a monkfish DAS for each NE multispecies DAS that the vessel leases, equal in number to the difference between the number of remaining NE multispecies DAS and the number of unused monkfish DAS at the time of the lease. For example, if a lessor vessel that had 31 unused monkfish DAS and 35 allocated NE multispecies DAS leased 10 of its NE multispecies DAS to another vessel, the lessor would forfeit 6 of its monkfish DAS ($10 - (35 \text{ NE multispecies DAS} - 31 \text{ monkfish DAS}) = 6$).

(3) Accrual of DAS. Unless otherwise provided in § 648.92(b)(8)(v), all monkfish DAS fished shall be charged to the nearest minute.

* * * * *

(9) * * *

(i) A vessel issued a limited access monkfish Category G or H permit may fish under a

monkfish DAS only in the SFMA, as defined at § 648.91(b).

* * * * *

§ 648.93 [Amended]

4. In § 648.93, remove paragraph (b), and redesignate paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b), respectively.

5. In § 648.94, revise paragraphs (b)(1)(ii), (b)(2)(i) and (ii), (b)(3)(i), (c)(1)(i), and (f) to read as follows:

§ 648.94 Monkfish possession and landing restrictions.

* * * * *

(b) * * *

(1) * * *

(ii) Category B and D vessels. Limited access monkfish Category B and D vessels that fish under a monkfish DAS exclusively in the NFMA may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

* * * * *

(2) * * *

(i) Category A, C, and G vessels. A vessel issued a limited access monkfish Category A, C, or G permit that fishes under a monkfish DAS in the SFMA may land up to 610 lb (277 kg) tail weight or 1,775 lb (805 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to

whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(ii) Category B, D, and H vessels. A vessel issued a limited access monkfish Category B, D, or H permit that fishes under a monkfish DAS in the SFMA may land up to 500 lb (227 kg) tail weight or 1,455 lb (660 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg)) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87) of monkfish heads only, as described in paragraph (a) of this section.

* * * * *

(3) * * *

(i) NFMA. A vessel issued a limited access monkfish Category C or F permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category D or F permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 500 lb (227 kg) tail weight or 1,455 lb (660 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category C, D, or F permit participating in the NE Multispecies Regular B DAS program, as specified under § 648.85(b)(6), is also subject to the incidental landing limit specified in paragraph (c)(1)(i) of this section on such trips.

* * * * *

(c) * * *

(1) * * *

(i) NFMA. A vessel issued a valid monkfish incidental catch (Category E) permit fishing under a NE multispecies DAS exclusively in the NFMA may land up to 300 lb (136 kg) tail weight or 873 lb (396 kg) whole weight of monkfish per DAS, or 25 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, whichever is less. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

* * * * *

(f) Area declaration requirement for a vessel fishing exclusively in the NFMA. A vessel intending to fish for, fishing for, possessing, or landing monkfish under a NE multispecies, scallop, or monkfish DAS under the less restrictive management measures of the NFMA, must fish exclusively in the NFMA for the entire trip. In addition, a vessel fishing under a monkfish DAS must declare its intent to fish in the NFMA through the vessel's VMS unit or through the vessel call-in system, as applicable. A vessel that is not required to and does not possess a VMS unit must also declare its intent to fish in the NFMA by obtaining a letter of authorization from the Regional Administrator, which is effective for a period of not less than 7 days, and fishing exclusively in the NFMA during the effective period of that letter of authorization. A vessel that has not declared into the NFMA under this paragraph (f) shall be presumed to have fished in the SFMA, and shall be subject to the more restrictive requirements of that area. A vessel that has declared into the NFMA may transit the SFMA, providing that it complies with the transiting and

gear storage provision described in paragraph (e) of this section, and provided that it does not fish for or catch monkfish, or any other fish, in the SFMA.

* * * * *

6. In § 648.95, revise paragraphs (a)(2), (c), (e)(3), (f), (g) heading, and (g)(1) and (3); and add paragraph (g)(4) to read as follows:

§ 648.95 Offshore Fishery Program in the SFMA.

(a) * * *

(2) A vessel issued a limited access monkfish Category C or D permit that applies for and is issued a Category F permit remains subject to the provisions specific to Category C and D vessels, unless otherwise specified under this subpart F.

* * * * *

(c) Offshore Fishery Program Area. The Offshore Fishery Program Area is bounded on the south by 38° 00' N. lat. and on the north, west, and east by the following coordinates, connected in the order listed by rhumb lines.

Point	N. Latitude	W. Longitude
1	41°18.6'	66°24.8'
2	40°55.5'	66°38.0'
3	40°45.5'	68°00.0'
4	40°37.0'	68°00.0'
5	40°30.0'	69°00.0'
6	40°22.7'	69°00.0'
7	40°18.7'	69°40.0'
8	40°21.0'	71°03.0'
9	39°41.0'	72°32.0'
10	38°47.0'	73°11.0'
11	38°04.0'	74°06.0'

* * * * *

(e) * * *

(3) A vessel issued a limited access monkfish Category F permit fishing on a monkfish DAS is subject to the minimum mesh size requirements specified in § 648.91(c)(1)(i) and (c)(1)(iii), as well as the other gear requirements specified in § 648.91(c)(2) and (c)(3).

* * * * *

(f) Transiting. A vessel issued a limited access monkfish Category F permit fishing under a monkfish DAS that is transiting to or from the Offshore Fishery Program Area, described in paragraph (c) of this section, shall have all gear stowed and not available for immediate use in accordance with the gear stowage provisions specified in § 648.23(b).

* * * * *

(g) Monkfish landing limits and DAS allocations. (1) A vessel issued a limited access monkfish Category F permit may land up to 1,600 lb (726 kg) tail weight or 4,656 lb (2,112 kg) whole weight of monkfish per monkfish DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91).

* * * * *

(3) A vessel issued a limited access monkfish Category F permit that is fishing under a NE multispecies DAS in the NFMA is subject to the incidental landing limit specified at § 648.94(b)(3).

(4) When not fishing on a monkfish DAS, a vessel issued a limited access monkfish Category F permit may fish under the regulations applicable to the monkfish incidental catch (Category E) permit, specified at § 648.94(c).

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[FR Doc. 2014-16959 Filed 07/17/2014 at 8:45 am; Publication Date: 07/18/2014]